

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO,
ET AL.,

Defendants.

No. 3:12-cv-2039 (GAG)

**JOINT STIPULATION MODIFYING PARAGRAPH 229 OF THE AGREEMENT FOR
THE SUSTAINABLE REFORM OF THE PUERTO RICO POLICE DEPARTMENT**

Plaintiff, the United States of America, and Defendants, the Commonwealth of Puerto Rico, et al. (collectively, “the Parties”), file this Joint Stipulation to modify Paragraph 229 of the Agreement for the Sustainable Reform of the Puerto Rico Police Department (Agreement), ECF No. 60. Paragraph 229 governs the review and approval of relevant policies¹ by the Technical Compliance Advisor (TCA) and the United States Department of Justice (DOJ). The modification is intended to improve the provision of technical assistance and facilitate the timely review and approval of policies that are consistent with the Agreement, applicable law, and generally-accepted policing practices. The modification requires that the Parties develop a policy review protocol that details each step necessary to complete the policy review process and incorporates the timeframes in the amended Paragraph 229. A policy review protocol approved by the Parties and endorsed by the TCA is attached hereto as Exhibit A.

¹ References to “policies” in this Joint Stipulation include all of the submissions required by Paragraph 229 of the Reform Agreement, *to wit*, policies, procedures, action plans, programs, protocols, forms, systems, and mechanisms.

I. Joint Stipulation to Modify Paragraph 229 of the Agreement

The Parties stipulate to modify Paragraph 229 of the Agreement as set forth below. The existing language of Paragraph 229 that will be retained appears in regular typeface, the language to be added appears in **bold-underlined** typeface, and language to be deleted appears in strikethrough typeface.

Consistent with this Agreement, PRPD shall submit all new and revised policies, procedures, action plans, programs, protocols, forms, systems, and mechanisms required by this Agreement to the TCA and DOJ for review and comment. PRPD shall have complied with this obligation when it has delivered to the TCA and DOJ its final drafts for review in the Spanish language. PRPD shall be under no obligation to submit its deliverables in the English language. DOJ will have ~~45~~ **20 calendar** days to complete its review and submit comments, if any, to PRPD and the TCA. The TCA may grant DOJ a reasonable extension, **not to exceed five calendar days. DOJ shall request this extension within its 20-day review period.** If DOJ does not submit any comments within the ~~45~~ **20-day** period or within the extension period granted by the TCA, DOJ shall be deemed not to object to the PRPD submission. The TCA shall complete its review ~~and approval~~ within 30 **calendar** days of PRPD's submission. **The Parties and the TCA shall meet and confer to address comments submitted by the TCA or DOJ, if any, and resolve outstanding concerns. After the meeting, PRPD shall submit a resolution draft within 15 calendar days. If, after PRPD submits the resolution draft,** the TCA or DOJ object to the proposed new or revised policy, procedure, plan, program, protocol, form, system, or mechanism, it shall note the objection in writing to all Parties within **10 calendar days of receiving the resolution draft from PRPD** ~~its respective review period~~. If neither the TCA nor DOJ object, or offer comments to the new or revised policy, procedure, plan, program, protocol, form, system, or mechanism, PRPD **shall request an approval memorandum from the TCA to be provided by the TCA within 5 calendar days of the request.** ~~agrees to implement it within 45 days of it being provided to DOJ and the TCA.~~ **The Parties shall develop and implement a policy review protocol to meet the requirements set forth in this paragraph.**

The final, modified Paragraph 229 would read as follows:

Consistent with this Agreement, PRPD shall submit all new and revised policies, procedures, action plans, programs, protocols, forms, systems, and mechanisms required by this Agreement to the TCA and DOJ for review and comment. PRPD shall have complied with this obligation when it has delivered to the TCA and DOJ its final drafts for review in the Spanish language. PRPD shall be under no obligation to submit its deliverables in the English language. DOJ will have 20 calendar days to complete its review and submit comments, if any, to PRPD and

the TCA. The TCA may grant DOJ a reasonable extension, not to exceed five calendar days. DOJ shall request this extension within its 20-day review period. If DOJ does not submit any comments within the 20-day period or within the extension period granted by the TCA, DOJ shall be deemed not to object to the PRPD submission. The TCA shall complete its review within 30 calendar days of PRPD's submission. The Parties and the TCA shall meet and confer to address comments submitted by the TCA or DOJ, if any, and resolve outstanding concerns. After the meeting, PRPD shall submit a resolution draft within 15 calendar days. If, after PRPD submits the resolution draft, the TCA or DOJ object to the proposed new or revised policy, procedure, plan, program, protocol, form, system, or mechanism, it shall note the objection in writing to all Parties within 10 calendar days of receiving the resolution draft from PRPD. If neither the TCA nor DOJ object, or offer comments to the new or revised policy, procedure, plan, program, protocol, form, system, or mechanism, PRPD shall request an approval memorandum from the TCA to be provided by the TCA within 5 calendar days of the request. The Parties shall develop and implement a policy review protocol to meet the requirements set forth in this paragraph.

II. Joint Brief Explaining the Modification to Paragraph 229

Under the terms of the Agreement, the Parties “may jointly stipulate to make changes, modifications, and amendments” that shall be effective 30 days after submitting them to the Court, absent further action from the Court. Agreement ¶ 296, ECF No. 60. The Agreement notes that “[s]uch changes, modifications, and amendments shall be encouraged when the Parties agree, or where the reviews, assessments, and/or audits of the TCA demonstrate that the Agreement provision as drafted is not furthering the purpose of the Agreement or that there is a preferable alternative that will achieve the same purpose, or that there are budgetary or operational considerations that require modification of time frames in the Agreement.” *Id.*

The Parties agree that the Joint Stipulation is necessary to enable the Puerto Rico Police Bureau (formerly known as the Puerto Rico Police Department, or PRPD) to develop and revise the policies required by the Agreement in a timely and thorough manner. As currently written, Paragraph 229 provides limited opportunities to provide technical assistance and confer on the form and content of new and revised policies. For instance, the current provision does not

include a period of research and development once the TCA and DOJ provide their initial feedback. Paragraph 229 also does not include timeframes for each step in the policy review process, resulting in inordinate delays. Currently, it is routinely taking longer than the 45 days contemplated by the Agreement for the Puerto Rico Police Bureau to issue final policies, which contributes to delays in training and implementation of those policies. The modification to Paragraph 229 permits the Parties and the TCA to work more collaboratively to develop relevant policies, while imposing clearer deadlines throughout the review and approval process to ensure their timely production and implementation.

This Joint Stipulation does not modify any other provision or requirement of the Agreement and is subject to the implementation and enforcement provisions of Section XIV of the Agreement.

WHEREFORE, the Parties respectfully request that the Court approve the Parties' stipulated modification to Paragraph 229 of the Agreement and endorse the attached policy review protocol.

Respectfully submitted, this 13th of March, 2018,

For Plaintiff UNITED STATES OF
AMERICA:

JOHN M. GORE
Acting Assistant Attorney General
Civil Rights Division

STEVEN H. ROSENBAUM
Chief, Special Litigation Section

s/ Luis E. Saucedo
TIMOTHY D. MYGATT
Deputy Chief
LUIS E. SAUCEDO (G01613)
Counselor to the Chief
BRIAN BUEHLER (G01813)

For Defendants COMMONWEALTH OF
PUERTO RICO, ET AL.:

WANDA VAZQUEZ GARCED
Secretary of Justice

WANDYMAR BURGOS VARGAS
Deputy in Charge of General Litigation

SUSANA PENAGARICANO BROWN
Director Federal Litigation and Bankruptcy

s/ Joel Torres Ortiz
JOEL TORRES ORTIZ
U.S.D.C. NO. 302311
Federal Litigation Division

Trial Attorney
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, NW
Washington, DC 20530
Tel: (202) 598-0482
Fax: (202) 514-4883
luis.e.saucedo@usdoj.gov

Attorneys for Plaintiff

Department of Justice
P.O. Box 9020192
San Juan, P.R., 00902-0192
Tel. (787) 721-2900, ext.2647,2650,2624
Fax (787) 723-9188
joeltorres@justicia.pr.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th of March, 2018, I filed the foregoing pleading electronically through the CM/ECF system, which caused the parties, counsel of record and the Technical Compliance Advisor on the service list to be served by electronic means.

s/Luis E. Saucedo
LUIS E. SAUCEDO (G01613)
Counselor to the Chief